

1638
PATENT

Attorney Docket No. DOW-07657

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mary Bendig *et al.*
Serial No.: 10/070,566
Filed: 03/07/2002
Entitled: Chimaeric Plant Viruses With Mucin Peptides

Group No.: 1638
Examiner: A. Mehta

AMENDMENT TRANSMITTAL

BOX NON FEE AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)

I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: April 12, 2004

By: 

Traci E. Light

Sir or Madam:

Transmitted herewith is an amendment for this application. The fee has been calculated as shown below.

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE	ADDITIONAL FEE
Total Claims	21	—	22	0	×	18.00	\$0.00
Independent Claims	1	—	3	0	×	86.00	\$0.00

TOTAL DUE 0.00

1. No additional fee is required.
2. Please charge any additional fees, including any fees necessary for extensions of time, or credit overpayment to Deposit Account No. 08-1290. An originally executed duplicate of this transmittal is enclosed for this purpose.

Dated: April 12, 2004

By: 

Peter G. Carroll
Registration No. 32,837

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
617/984.0616



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In re Application of: Mary Bendig *et al.*

Serial No.: 10/070,566

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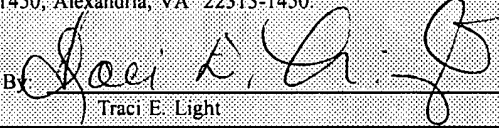
Filed: 03/07/2002

Examiner: Mehta, A.

Entitled: Chimaeric Plant Viruses With Mucin Peptides

RESPONSE TO RESTRICTION REQUIREMENT
MAILED MARCH 12, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir or Madam:

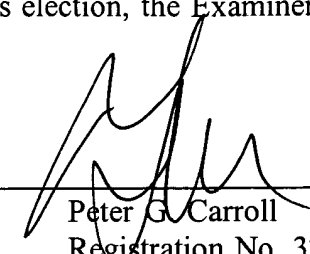
The claims are subject to a restriction requirement. The Examiner has divided the claims of the pending application into two groups. Group I consists of Claims 1-19, 21, and 22; Group II consists of Claim 20.

The MPEP requires that Examiner show there is an undue search burden before making a restriction. In this regard, "... a serious burden on the examiner may be *prima facie* shown if the examiner shows by **appropriate explanation** either separate classification, separate status in the art, or a different field of search ... " *MPEP* § 803 ¶ 5 [emphasis added]. This standard is not met here. The Examiner has not provided any "appropriate explanation" for the separate classifications. *MPEP* § 803 ¶2 ("Examiners must provide reasons and/or examples to support conclusions ... to support the requirement ...").

Without waiving this argument, the Applicants provide an election of the Examiner's offered groups only because required to do so under 35 U.S.C. § 121. If the Examiner decides not to reconsider the groupings, the Applicants choose, with traverse, Group I.

Should the Examiner wish to discuss this election, the Examiner is requested to call, collect, the undersigned.

Dated: April 12, 2004



Peter G. Carroll
Registration No. 32,837

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